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MAY 10 2019

Pro Se 14 (Rev. 12/16) Complaint for Violation of Civil Rights (Prisoner)

UNITED STATES DISTRICT COURT

for the

Western District of OklahomaCivil DivisionCARMELITA REEDER SHINN, CLERK
U.S. DIST. COURT, WESTERN DIST. OKLA.
BY mt DEPUTY

CIV-19-431-PRW

Case No. _____

(to be filled in by the Clerk's Office)

CHARLES WAGGONER

Plaintiff(s)

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-v-

Mr. Byrd and Mr. Petate

Defendant(s)

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names. Do not include addresses here.)

COMPLAINT FOR VIOLATION OF CIVIL RIGHTS
(Prisoner Complaint)**NOTICE**

Federal Rules of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

Except as noted in this form, plaintiff need not send exhibits, affidavits, grievance or witness statements, or any other materials to the Clerk's Office with this complaint.

In order for your complaint to be filed, it must be accompanied by the filing fee or an application to proceed in forma pauperis.

I. The Parties to This Complaint**A. The Plaintiff(s)**

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name

Charles Waggoner

All other names by which
you have been known:

N/A

ID Number

202761

Current Institution

Love Line

Address

3200 S. Kings Hwy
Lushing OKIA 74023
City State Zip Code

B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. Make sure that the defendant(s) listed below are identical to those contained in the above caption. For an individual defendant, include the person's job or title (*if known*) and check whether you are bringing this complaint against them in their individual capacity or official capacity, or both. Attach additional pages if needed.

Defendant No. 1

Name

Mr. ByrdJob or Title (*if known*)Warden of Facility

Shield Number

Employer

Love Line

Address

3200 S. Kings Hwy
Lushing OKIA 74023
City State Zip Code



Individual capacity



Official capacity

Defendant No. 2

Name

Mr. PeteteJob or Title (*if known*)Auditor

Shield Number

Employer

Love Line

Address

3200 S. Kings Hwy
Lushing OKIN 74023
City State Zip Code



Individual capacity



Official capacity

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Defendant No. 3

Name _____

Job or Title (if known) _____

Shield Number _____

Employer _____

Address _____

City _____

State _____

Zip Code _____

☐

Individual capacity

☐

Official capacity

Defendant No. 4

Name _____

Job or Title (if known) _____

Shield Number _____

Employer _____

Address _____

City _____

State _____

Zip Code _____

☐

Individual capacity

☐

Official capacity

II. Basis for Jurisdiction

Under 42 U.S.C. § 1983, you may sue state or local officials for the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” Under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), you may sue federal officials for the violation of certain constitutional rights.

A. Are you bringing suit against (check all that apply):

☐Federal officials (a *Bivens* claim)☒

State or local officials (a § 1983 claim)

B. Section 1983 allows claims alleging the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” 42 U.S.C. § 1983. If you are suing under section 1983, what federal constitutional or statutory right(s) do you claim is/are being violated by state or local officials?

5th, 13th, 8th, And 14th Amendment Violations

C. Plaintiffs suing under *Bivens* may only recover for the violation of certain constitutional rights. If you are suing under *Bivens*, what constitutional right(s) do you claim is/are being violated by federal officials?

N/A

- D. Section 1983 allows defendants to be found liable only when they have acted "under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia." 42 U.S.C. § 1983. If you are suing under section 1983, explain how each defendant acted under color of state or local law. If you are suing under *Bivens*, explain how each defendant acted under color of federal law. Attach additional pages if needed.

Each defendant agreed to follow and obey
State and Federal Law as well as policy

III. Prisoner Status

Indicate whether you are a prisoner or other confined person as follows (check all that apply):

- ☐ Pretrial detainee
- ☐ Civilly committed detainee
- ☐ Immigration detainee
- ☐ Convicted and sentenced state prisoner
- ☐ Convicted and sentenced federal prisoner
- ☒ Other (explain) Im being held falsely At Lone Livie

IV. Statement of Claim

State as briefly as possible the facts of your case. Describe how each defendant was personally involved in the alleged wrongful action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

SEE ATTACHMENT
NEXT →

- A. If the events giving rise to your claim arose outside an institution, describe where and when they arose.

Inside

- B. If the events giving rise to your claim arose in an institution, describe where and when they arose.

Lone Livie, on 3-15-19

Statement of Claim

Pg 1

In January-2019, A Amended Judgement and Sentence was order stating Petitioner, WAS TO RELIEVE CREDIT FOR TIME SERVED SINCE 1-26-18. A COPY WAS FORWARDED TO CORE CIVIL CORR. FACILITY RECORDS OFFICE TO A MR. PETETE. AFTER SEVERAL R.T.S. I FINALLY SPOKE WITH MR. PETETE. AT THAT TIME HE TOLD ME CASES CAN "CONCURRENTLY", MUST STATE ON JUDGEMENT "CREDIT FOR ALL EARNED CREDIT", BEFORE I RELIEVED ANY "EARNED" CREDIT'S. I INFORMED MR. PETETE, THAT CONCURRENT CASES CAN TOGETHER AS "ONE" BOTH CASES RELIEVE THE SAME "EARNED" CREDIT'S UNLESS JUDGEMENT OR LAW SAYS OTHERWISE. AT THAT TIME HE TOLD ME I COULD FILE A COPLIVANCE, BUT IT WOULDN'T DO ANY GOOD; BECAUSE HIS WIFE WORKED FOR D.O.C., SENTENCE ADMINISTRATION A MRS. TINA PETETE.

ON 3-25-19, I RECEIVED A LETTER FROM HER, BACKING UP THE STATEMENTS HER HUSBAND STATED WITH NO PROOF FROM LAW OR POLICY, BUT I WAS "THREATENED" BY HER IN THE LETTER, STATING "IF I CONTINUE TO QUESTION ANY MORE STAFF CONCERNING THIS SAME ISSUE COULD BE CONSIDERED HARASSMENT AND I CAN RECEIVE A MISCONDUCT."

I HAVE A "RIGHT" TO QUESTION THE OFFICIAL RECORDS OFFICE, CASEWORKER, UNIT MANAGER OR THE WARDEN. ABOUT THE LENGTH OF MY SENTENCE; AND NOW THAT I'M BEING HELD ILLEGALLY AGAINST MY WILL, I'M BEING TOLD IF I SAY ANYTHING ELSE ABOUT IT, I'LL RECEIVE A MISCONDUCT. MY DUE-PROCESS

"Claim Conclusion"

pg 2

rights. What Judgment do's CORE CIVIL HAVE to keep me in prison? This ACT is A "Breach of duty CASE", by NEGLIGENCE that resulted in a FORESEEABLE injury that would not have occurred but for NEGLIGENT PERSONS ACTIONS.

Each OFFICIAL I talked to had the SAY SO OR POWER to FIX the ISSUE but REFUSED to do so BECAUSE they didn't want to be RESPONSIBLE, for this FACILITY to keep me here like this has VIOLATED SEVERAL OF my CONSTITUTIONAL RIGHTS: ① DUE-PROCESS, ② NEGLIGENCE, ③ MENTAL SUFFERING, ④ CORE PUNISHMENT.

I HAVE SUBMITTED COPIES OF EXHAUSTION OF ADMINISTRATIVE REMEDIES PURSUANT P.L.R.A 412 U.S.C. § 1997e(c), to show the COURT that the PETITIONER MADE EVERY ATTEMPT to RESOLVE SAID COMPLAINT BEFORE BRINGING it before the COURT.

BASED ON THE THREAT I HAVE RECEIVED FROM SENTENCE ADMINISTRATOR AND OFFICER AS WELL AS ADMINISTRATIVE STAFF HERE AT CORE CIVIL I AM IN FEAR FOR MY LIFE. I DON'T KNOW WHAT THESE PEOPLE WILL DO, THE RECORD IS CLEAR THAT THEY HELD ME PAST my discharge date. ONCE this CASE is made "PUBLIC", I FEAR RETALIATION BECAUSE I HAVE ALREADY BE OPENLY THREATENED. AS A MATTER OF LAW, I REQUEST this COURT PLACE me PROTECTIVE CUSTODY, AS SOON AS POSSIBLE.

This ACT that has been COMMITTED against me is "MALICE", to harm, AND UNLAWFUL.

C. What date and approximate time did the events giving rise to your claim(s) occur?

3-15-19

D. What are the facts underlying your claim(s)? (For example: What happened to you? Who did what? Was anyone else involved? Who else saw what happened?)

On 1-16-19, I RECEIVED A REMENDED JUDGEMENT AND SENTENCE ON LF-2017-367. THE COURT GAVE ME 4-YEARS CONCURRENT WITH 5-YEARS OUT OF LUTON COUNTY, WITH CREDIT FOR TIME SERVED. MR. PETTE, THE AUDITOR REFUSED TO

SEE ATTACHMENT A6X7

V. Injuries

If you sustained injuries related to the events alleged above, describe your injuries and state what medical treatment, if any, you required and did or did not receive.

ON 3-25-19, I WAS THREATENED BY THE AUDITOR
SEE ATTACH
DUE-PROCESS. BREACH OF DUTY OF CARE, NEGLIGENCE
FALSE IMPRISONMENT, LOW PUNISHMENT, MENTAL SUFFERING

VI. Relief

State briefly what you want the court to do for you. Make no legal arguments. Do not cite any cases or statutes. If requesting money damages, include the amounts of any actual damages and/or punitive damages claimed for the acts alleged. Explain the basis for these claims.

THIS FACILITY KNOWS IT IS HOLDING ME ILLEGALLY, UNLESS I PROVE THIS TO THE COURT.

I REQUEST DAMAGES OF FIVE-MILLION DOLLARS

Statement of Facts

GIVE ME MY EARNED CREDIT'S ON THE CASE THAT IS RUNNING CONCURRENT WITH THE 5-YEAR SENTENCE THAT I HAVE ALREADY DISCHARGED. I'VE WRITTEN SEVERAL REQUESTS TO STAFF TO WARDEN BYRD AND AUDITOR MR. PETETE, BUT RECEIVED NO RELIEF OR RESPONSE. I HAVE BEEN HELD IN THIS PRISON NOW FALSELY FOR ALMOST A MONTH. I HAVE DONE MY TIME, I ONLY WISH TO GO HOME. ON 3-21-19, I RECEIVED REQUEST STAFF, AND GRIEVANCE BACK FROM ADMINISTRATION WITH NO RELIEF.

ON 3-25-19, I RECEIVED A LETTER FROM A TINA PETETE, FROM THE D.O.C., SENTENCE ADMINISTRATION OFFICE, HOWLY CHALLENGING LAW AND THREATEN PETITIONER, WHICH A MISCONDUCT FOR HARASSMENT OF STAFF, FOR QUESTIONS CONCERNING HIS SENTENCE, THAT HAS BEEN DISCHARGE IN-WHICH HE IS BEING "ILLEGALLY" HELD ON IN-WHICH HE REQUEST TO BE RELEASED.

PETITIONER, REQUEST THAT THIS COURT "GRANT'S" A JURY TRIAL ON CLAIM'S SO THE "PEOPLE" CAN PASS GOOD JUDGEMENT ON THE FACTS.

VII. Exhaustion of Administrative Remedies Administrative Procedures

The Prison Litigation Reform Act ("PLRA"), 42 U.S.C. § 1997e(a), requires that "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted."

Administrative remedies are also known as grievance procedures. Your case may be dismissed if you have not exhausted your administrative remedies.

A. Did your claim(s) arise while you were confined in a jail, prison, or other correctional facility?

☒ Yes

☐ No

If yes, name the jail, prison, or other correctional facility where you were confined at the time of the events giving rise to your claim(s).

LOVE LIND

B. Does the jail, prison, or other correctional facility where your claim(s) arose have a grievance procedure?

☒ Yes

☐ No

☐ Do not know

C. Does the grievance procedure at the jail, prison, or other correctional facility where your claim(s) arose cover some or all of your claims?

☐ Yes

☐ No

☒ Do not know

If yes, which claim(s)?

This facility claims they don't have to follow D.O.L. policy, just part of it.

- D. Did you file a grievance in the jail, prison, or other correctional facility where your claim(s) arose concerning the facts relating to this complaint?

☒ Yes

☐ No

If no, did you file a grievance about the events described in this complaint at any other jail, prison, or other correctional facility?

☒ Yes

☐ No

- E. If you did file a grievance:

1. Where did you file the grievance?

"Attached"

I Filed A grievance At the Facility And to the Director.

2. What did you claim in your grievance?

"Attached"

That I Was being Falsely detained.

3. What was the result, if any?

"SEE Attachments Exhibit A"

I received NO Response

4. What steps, if any, did you take to appeal that decision? Is the grievance process completed? If not, explain why not. (Describe all efforts to appeal to the highest level of the grievance process.)

I Sent request to Staff to Records Office, 4- to Auditor Petete, Grievance to Warden Byrd, And Grievance to Director on-3-15-19

F. If you did not file a grievance:

1. If there are any reasons why you did not file a grievance, state them here:

I Filed (2) GRIEVANCES but got NO ANSWER

2. If you did not file a grievance but you did inform officials of your claim, state who you informed, when and how, and their response, if any:

I inform LASEWORKER, Unit manager, PETER, Mr. Hillagos, Warden Byrd.

G. Please set forth any additional information that is relevant to the exhaustion of your administrative remedies.

SEE ATTACHMENTS

(Note: You may attach as exhibits to this complaint any documents related to the exhaustion of your administrative remedies.)

VIII. Previous Lawsuits

The "three strikes rule" bars a prisoner from bringing a civil action or an appeal in federal court without paying the filing fee if that prisoner has "on three or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury." 28 U.S.C. § 1915(g).

To the best of your knowledge, have you had a case dismissed based on this "three strikes rule"?

☐ Yes

☒ No

If yes, state which court dismissed your case, when this occurred, and attach a copy of the order if possible.

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- A. Have you filed other lawsuits in state or federal court dealing with the same facts involved in this action?

☐ Yes

☒ No

- B. If your answer to A is yes, describe each lawsuit by answering questions 1 through 7 below. (If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)

1. Parties to the previous lawsuit

Plaintiff(s) _____

Defendant(s) _____

N/A

2. Court (if federal court, name the district; if state court, name the county and State)

N/A

3. Docket or index number

N/A

4. Name of Judge assigned to your case

N/A

5. Approximate date of filing lawsuit

N/A

6. Is the case still pending?

☐ Yes

☒ No

If no, give the approximate date of disposition.

N/A

7. What was the result of the case? (For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?)

N/A

- C. Have you filed other lawsuits in state or federal court otherwise relating to the conditions of your imprisonment?

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☐ Yes

☒ No

D. If your answer to C is yes, describe each lawsuit by answering questions 1 through 7 below. (If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)

1. Parties to the previous lawsuit

Plaintiff(s)

Defendant(s)

7/17

2. Court (if federal court, name the district; if state court, name the county and State)

7/17

3. Docket or index number

7/17

4. Name of Judge assigned to your case

7/17

5. Approximate date of filing lawsuit

7/17

6. Is the case still pending?

☐ Yes

☒ No

If no, give the approximate date of disposition

7/17

7. What was the result of the case? (For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?)

7/17

IX. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: 4-1-2019

Signature of Plaintiff

Printed Name of Plaintiff

Prison Identification #

Prison Address

CHARLES WAGGONER
CHARLES WAGGONER
202761
3200 S. Kings Hwy
Lushing OKLA 74023
City State Zip Code

B. For Attorneys

Date of signing: _____

Signature of Attorney

Printed Name of Attorney

Bar Number

Name of Law Firm

Address

City State Zip Code

Telephone Number

E-mail Address

